



U.S. Department of Transportation
Federal Motor Carrier Safety Administration

The Household Goods Enforcement Assistance Outreach Plan Report to Congress

A Report Pursuant to Section 4206 of the
Safe, Accountable, Flexible, Efficient Transportation Equity Act:
A Legacy for Users
Public Law 109-59

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EXECUTIVE SUMMARY

The Federal Motor Carrier Safety Administration (FMCSA) developed this Household Goods (HHG) Enforcement Assistance Outreach Plan as required by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The purpose of the plan is to enhance coordination related to HHG moving fraud among FMCSA, Federal, State, and local law enforcement, investigators, regulators, and consumer protection authorities to reduce incidents of moving fraud and to strengthen and streamline the enforcement of HHG regulations.

This plan was developed by FMCSA, with input from FMCSA's partners, as required by SAFETEA-LU. Three priority initiative areas were identified by the group for enhanced outreach coordination. For each priority area, associated actions were identified to achieve common goals.

- **INITIATIVE 1: General Communication and Information Sharing:** States and other partners desire that FMCSA take a more proactive role in disseminating general information related to household goods enforcement. The FMCSA will reach out to all 50 States, the District of Columbia, and U.S. territories to enhance general communication and coordination related to HHG enforcement. The FMCSA will enhance access to the information it collects on HHG carriers, and will facilitate information sharing among its partners.
 - Regularly host HHG enforcement conference calls that include a learning component such as discussions of best practices, and feedback on incidents or events; and
 - Develop and distribute to the States and other partners an enforcement contact list, including FMCSA Headquarters, Service Centers, Division Administrators, FMCSA HHG investigators, and FMCSA Technical Assistance Group members, as well as State HHG enforcement contacts, and local contacts.

- **INITIATIVE 2: Information Sharing Related to Federal Laws and Regulations:** States and other partners request additional information on relevant Federal laws, as well as increased access to the guidance FMCSA prepares in implementing regulations. The FMCSA will provide additional, more detailed guidance related to commercial enforcement of Federal HHG laws and regulations. The FMCSA will distribute this information to partners on a regular basis.
 - Prepare and share guidance documents related to Federal laws and regulations with State enforcement partners. Communications will include written letters and policy memos, briefings and sample legal documents, materials posted to FMCSA's Web site, and presentations at workgroups and related professional conferences (e.g., the National Association of Attorneys General).

- **INITIATIVE 3: Enforcement-Specific Communication and Information Sharing:** States and FMCSA do not have designated channels or procedures to share case specific enforcement information. The FMCSA will develop policies to distribute enforcement information to partners, provide partners with access to enforcement tools and databases, alert partners to ongoing Federal enforcement actions and investigations, encourage States to notify FMCSA of actions, and work with partners to establish procedures to better target and coordinate enforcement actions and court filings.
 - Enhance and increase access to various FMCSA databases, including the National Consumer Complaint Database;
 - Ask States to encourage consumer reporting to FMCSA’s complaints database so that the national database reflects all relevant complaints;
 - Develop policies and procedures to share case specific Federal enforcement information with partners in a timely manner. Encourage partners to share information with FMCSA;
 - Provide States with information to detect companies that may be in violation of Federal laws, based on abnormal or suspicious data patterns. States can use this information in their own efforts to decide which carriers to target for investigation;
 - Provide regular updates to the Office of the Inspector General (OIG), especially as they relate to hostage goods enforcement, so that OIG can consider taking actions against carriers;
 - Develop a Memorandum of Understanding for all parties to document how confidential information will be shared, handled, stored, and distributed; and
 - Develop a procedure to identify HHG data needed by States and collected by FMCSA, including information kept in carrier and/or broker files. Link this information with the contact list so that enforcement partners know whom to contact to obtain additional information.

These three initiative areas and associated actions will be FMCSA’s next steps in improving the coordination of enforcement actions and information. The FMCSA has initiated work on these action items, and most items will be completed within two-years. Items will be developed in cooperation with FMCSA’s partners.

INTRODUCTION

The Interstate Commerce Commission (ICC) Termination Act of 1995 transferred Federal oversight responsibility for interstate household goods (HHG) movers to the U.S. Department of Transportation (DOT), which delegated this authority to the Federal Highway Administration and then to the Federal Motor Carrier Safety Administration (FMCSA). The FMCSA is committed to assuring safe moves for the millions of Americans who participate annually in interstate moves, and it protects the public through a variety of commercial enforcement initiatives.

The transportation of HHG is one of the most challenging enforcement programs within FMCSA. Because individual shippers are generally not aware of motor carrier regulations and responsibilities, they are vulnerable to misunderstandings, false promises, and consumer fraud in their pursuit of “the best deal.” Although the majority of HHG carriers are honest and reliable, a number of dishonest movers take advantage of individual shipper’s lack of knowledge of HHG movers’ responsibilities and the enforcement limitations faced by Federal, State and local agencies due to resource limitations. These dishonest movers have established patterns of abuse against uninformed consumers.

The FMCSA’s goal is to reduce these abusive operating practices and to ensure efficient motor carrier operations. The FMCSA is committed to enforcing HHG regulations and is working to:

1. Reduce the number of HHG complaints;
2. Implement a comprehensive HHG enforcement program that identifies problem carriers; and
3. Initiate effective enforcement actions against abusive, noncompliant, and unsafe interstate moving companies and individuals.

The FMCSA’s authority in this area was expanded by the enactment of The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) in 2005, which included provisions to enhance consumer protection for HHG shippers. SAFETEA-LU mandated that FMCSA “implement an outreach plan to enhance the coordination and effective enforcement of Federal laws and regulations with respect to transportation of household goods between and among Federal and State law enforcement and consumer protection authorities. The outreach shall include, as appropriate, local law enforcement and consumer protection authorities.” This Report to Congress outlines the Enforcement Assistance Outreach Plan FMCSA has developed.

The focus of this effort is enforcement coordination, rather than outreach to the general public. The goal of this plan is to enhance coordination among Federal, State, and local law enforcement, investigators, regulators, and consumer protection authorities, and to increase the effective enforcement of Federal, State, and local laws and regulations with respect to the transportation of HHG. Accordingly, FMCSA will seek new ways to work together to achieve mutual goals.

This plan was developed to enhance communication between FMCSA, States, and other parties on important directions, processes, and activities related to HHG enforcement. The plan aligns these communication needs with the mission of FMCSA and sets forth goals for implementation. This initiative opens lines of communication and enhances access to data to increase coordination and better enable various authorities to protect consumers against dishonest movers. The FMCSA's Commercial Enforcement Division (MC-ECC) is the lead on plan implementation.

The plan recommends program goals and objectives that are measurable and meaningful; and demonstrates the alignment of all activities to congressional mandates.

As a result of the anticipated coordination and collaboration between FMCSA and its partners, there will be enhanced attention toward the HHG industry. This will aide in reducing abusive operating practices by dishonest movers.

METHODOLOGY

This Enforcement Assistance Outreach Plan was created based on the input and suggestions of enforcement stakeholders from FMCSA's HHG Enforcement Workgroup. The Workgroup included Federal, State, and local HHG enforcement officials and consumer protection authorities. The non-Federal Workgroup members unofficially offered their experience, advice, and expertise.

The plan was refined based on input from FMCSA's legal and enforcement staff, industry experts, and State-level enforcement groups. This plan is a product of FMCSA, and is not officially endorsed or approved by any of these other organizations.

The list of problems to be addressed in the plan was developed via a series of conference calls with Workgroup members beginning in the fall of 2007. The approach was to first identify the key issues most States face related to HHG enforcement, and to describe the problems in detail to identify root and extenuating causes. This served to identify common problems faced by multiple States. A total of seven issue areas¹ were identified as a result of these discussions. These concerns are reflected in the three core initiatives presented in this plan.

The Workgroup generated an extensive list of possible action items for FMCSA to consider related to how to improve and enhance enforcement coordination. The group also provided guidance on how to prioritize these items for implementation.

The remainder of this plan specifies these action items and describes FMCSA's approach to implementing these items.

¹ The initial seven initiatives were: State Guidance — SAFETEA-LU; Communication and Information Sharing; Federal Investigations; Law Enforcement; State Authority Involvement; Federal Staffing and Resources; and, Information Requirements — Data Exchange.

OUTREACH INITIATIVES

The workgroup helped FMCSA to identify specific areas where enforcement coordination can be enhanced. For example, Workgroup members identified problems such as:

- Limited information on the resources FMCSA has to offer to States and others, including complaint databases which States may access and contact information for Federal employees;
- Limited understanding of relevant Federal laws and regulations; and
- Lack of consistent communication channels from FMCSA to States, States to FMCSA, and among enforcement partners in sharing information related to enforcement issues.

Based on these identified problem areas, FMCSA and its partners identified three priority areas for outreach coordination and collaboration:

- INITIATIVE 1: General Communication and Information Sharing;
- INITIATIVE 2: Information Sharing Related to Federal Laws and Regulations; and
- INITIATIVE 3: Enforcement-Specific Communication and Information Sharing

This plan details these initiatives, including the purpose of addressing each initiative area, FMCSA's overall message related to each initiative, and suggested action items to support each initiative.

Each suggested action item will be accomplished in a two-year time period, and several are already underway. The implementation of these initiatives supports external requirements outlined in SAFETEA-LU and Government Accountability Office recommendations (see Appendix A).

INITIATIVE 1: General Communication and Information Sharing

Purpose

- Enhance communication and feedback; Federal to State, State to Federal, and State to State; and
- Establish consistent procedures for information sharing among Federal, State, and local law enforcement, investigators, regulators, and consumer protection authorities.

Outreach Issue

States requested that FMCSA serve as a clearinghouse for general information related to HHG enforcement, and also that FMCSA enhance and improve channels for information sharing (Federal to State, State to Federal, and State to State). Partners would also like better contact information for all stakeholders working in this area. In many cases, FMCSA has this information available, but has not been actively compiling and distributing it to enforcement partners.

Message

The FMCSA will reach out to all 50 States, the District of Columbia, and U.S. territories to enhance general communication and coordination related to HHG enforcement. The FMCSA will enhance access to the information it collects on HHG carriers (to the extent that such information is not subject to statutory or regulatory limitations), and will facilitate information sharing among its partners.

Action Items

- Regularly host HHG enforcement conference calls that include a learning component such as discussions of best practices, and feedback on incidents or events; and
- Develop and distribute an enforcement contact list via mail or e-mail, including FMCSA Headquarters, Service Centers, Division Administrators, HHG investigators, and Technical Assistance Group, as well as State HHG enforcement contacts, and local contacts. Preliminary work has started in this area, including distributing the contact information for HHG enforcement workgroup members.

INITIATIVE 2: Information Sharing Related to Federal Laws and Regulations

Purpose

- Increase State enforcement and compliance with Federal laws; and
- Improve education and training on Federal laws (e.g., 49 U.S.C. § 14710 and 14711 (enacted by Sec. 4206 of SAFETEA-LU)), and encourage States to take enforcement actions using these statutory provisions, as appropriate.

Outreach Issue

States requested guidance on what is required to enable them to enforce the Federal laws in this area, including laws regarding carriers holding goods hostage in their States. While FMCSA has provided some information on this topic via the Workgroup and on FMCSA's Web site, this information is not always disseminated in a consistent manner. Partners also requested additional information to address gaps in existing materials.

Message

The FMCSA will provide additional, more detailed guidance related to commercial enforcement of Federal HHG laws and regulations. The FMCSA will distribute this information to partners on a regular basis.

Action Items

- Prepare and share guidance documents related to Federal laws and regulations with State enforcement partners. Communications will include written letters and policy memos, briefings and sample legal documents, materials posted to FMCSA's Web site, and presentations at workgroups and related professional conferences (e.g., the National Association of Attorneys General).
 - The FMCSA provides information on its Web site such as legal summaries and requirements for movers (see <http://www.protectyourmove.gov/regulation-enforcement/regs.htm>);
 - The FMCSA prepared a letter listing the statutory and regulatory requirements of Section 4206 for individual shippers which was provided in August 2006 to Workgroup members and will be distributed more widely;
 - The FMCSA published a Federal Register Notice specifying the Federal statutory and regulatory provisions that States may enforce that was published November 2006 and will be distributed more widely;
 - The FMCSA distributed sample injunctions in August 2007 to workgroup members and will be widening the distribution;
 - The FMCSA will provide recommendations on how States might implement the State enforcement provisions of Federal laws and regulations;
 - The FMCSA will develop and deliver comprehensive Federal law and regulations workshops and briefings for Attorney Generals and other State officials; and
 - Document sample pleadings, judgments, and other materials published by the Federal Trade Commission (FTC) and develop documents for distribution.

INITIATIVE 3: Enforcement-Specific Communication and Information Sharing

Purpose

- More effectively enforce Federal and State laws and regulations to get dishonest movers off the road, conserve resources, and expedite action against dishonest interstate movers;
- Improve tracking of dishonest intrastate and interstate carriers; and
- Improve efficiency of targeting of carriers for investigation.

Outreach Issue

Law enforcement, investigators, regulators, and consumer protection authorities would like to enhance enforcement efforts through additional information sharing specific to enabling and encouraging more efficient enforcement actions, possibly via the creation of a standardized referral and/or complaint process. There is currently limited information sharing that takes place related to patterns of abuse, compliance reviews, and investigations. States would also like to receive ongoing information from FMCSA on Federal activities and investigations, and have better access to information FMCSA has about individual carriers, specifically the type of information that is on carriers' applications (e.g., principal address and names of proprietors or officers).

Message

The FMCSA will develop policies to distribute enforcement information to partners, provide partners with access to enforcement tools and databases, alert partners to ongoing Federal enforcement actions and investigations and encourage States to notify FMCSA of actions, and work with partners to establish procedures to better target and coordinate enforcement actions and court filings.

Action Items

- Enhance and increase access to various FMCSA databases, including the National Consumer Complaint Database;
 - Publish instructions for accessing various FMCSA databases in order to review HHG carrier enforcement and compliance history, license and insurance information, and other available data;
 - Provide additional training on how to use the various databases; previous training occurred during the May 2007 enforcement workgroup call; and
 - Encourage additional States to use and access databases. Seven States have requested and received access to the databases.
- Ask States to encourage consumer reporting to FMCSA's complaints database so that the national database reflects all relevant complaints;
- Develop policies and procedures to share Federal enforcement information with partners in a timely manner. Encourage partners to share information with FMCSA.
 - Develop a policy to share information among State and Federal officials when an HHG carrier or broker is having its license revoked. Information should include, at minimum, name of company, contact information, and reason(s) for revoking license;
 - Develop a policy regarding sharing HHG enforcement information when a new investigation is being initiated. Information should include (at minimum): name of company, contact information, and summary of problems agencies are seeing;
 - Develop a policy regarding sharing HHG enforcement information related to court filings and fines; and
 - Develop communication channels to alert States to upcoming HHG compliance reviews and strike forces, and share information and findings from these efforts.

- Provide States with information to detect companies that may be in violation of Federal laws, based on abnormal or suspicious data patterns. States can use this information in their own efforts to decide which carriers to target for investigation;
 - The Evasion Detection Algorithm is a tool that FMCSA developed to assist in identifying carriers that have gone out of business due to violations of commercial regulations and may be attempting to reestablish themselves by shielding their identity. The algorithm compares data (i.e. company address, contact numbers, drivers, vehicles, and insurance information) for newly registered carriers to out of service carriers. The final product from this algorithm is a list of suspect newly-registered carriers with at least one matching data element to an out of service carrier. States may use this data to target their own enforcement efforts;
 - The Commercial Status (ComStat) algorithm ranks HHG carriers according to their risk of commercial regulatory non-compliance. ComStat ranks relative risk by applying a regression model using each carrier's complaint counts and Motor Carrier Safety Status Measurement System (SafeStat) data. The final product is a Top 100 HHG Carrier List. The FMCSA is currently developing this report; and
 - HHG performance measures will track a number of target areas such as public complaints, commercial reviews, enforcement actions, and outreach efforts. States may use this quarterly information to identify trends in complaint data and for effectiveness reviews.

- Provide regular updates to the Office of the Inspector General (OIG), especially as they relate to hostage goods enforcement, so that OIG can consider taking actions against carriers;
- Develop a Memorandum of Understanding for all parties that direct how confidential information is to be shared, handled, stored, and distributed. Discussions on this topic are ongoing in the Workgroup; and
- Develop a procedure to identify HHG data needed by States and collected by FMCSA, including information kept in carrier and/or broker files. Link this information with the contact list so that enforcement partners know whom to contact to obtain additional information. Partners have identified some of the data they need as part of the development of this plan. Distribute information to partners via mail or e-mail.

NEXT STEPS

This plan will be implemented by FMCSA in conjunction with the HHG enforcement workgroup and other interested partners. The FMCSA will identify an outreach coordinator to ensure this plan supports FMCSA's HHG goals and objectives in the most effective and efficient manner. The next step in implementation is to further define each item in this plan in conjunction with the HHG workgroup, and to determine an associate timeline and budget for implementation.

Completed action items developed under this plan will be distributed to multiple parties as appropriate. These include:

- Federal, State, and local law enforcement, investigators, regulators, and consumer protection authorities;
- FMCSA Field Administrators and Division Administrators;
- DOT Office of Inspector General (OIG);
- FMCSA Federal and State program managers;
- National Association of Attorneys General (NAAG);
- National Association of Consumer Agency Administrators (NACAA);
- North American Consumer Protection Investigators (NACPI); and
- National Conference of Weights and Measures (NCWM).

FOR MORE INFORMATION

Thank you for your interest in this plan. For more information on issues related to HHG enforcement, please contact:

- The FMCSA Commercial Enforcement Division: 202-385-2400
- Household Goods Consumer Complaint Hotline and Web site: 1-888-DOT-SAFT(1-888-368-7238) or <http://nccdb.fmcsa.dot.gov/>
- Consumer Education and Information Web site: <http://www.protectyourmove.gov>

APPENDIX A: GAO RECOMMENDATIONS

The initiatives outlined in this plan address several recommendations put forward by GAO in previous reports. This section of the plan cites the relevant recommendations.

Consumer Protection: Federal Actions are Needed to Improve Oversight of the Household Goods Moving Industry (GAO-01-318, Mar. 5, 2001, pgs. 23-24).

Recommendations:

1. FMCSA should ensure that division offices collect and maintain information on consumer complaints consistently and that the information is shared across division offices and with headquarters.
2. FMCSA should assess whether enforcement activities against household goods carriers are effective and sufficient and, if not, increase enforcement actions against interstate household good carriers, as outlined in the motor carrier administration's plans.
3. FMCSA should reach out to consumers, consumer and industry groups, and state governments and use Internet postings and other means, consistent with the motor carrier administration's plans.
4. FMCSA should publicize the results of the Department's enforcement cases against household good carriers.

Consumer Protection: Consumer Protection Some Improvements in Federal Oversight of Household Goods Moving Industry Since 2001, but More Action Needed to Better Protect Individual Consumers. (GAO-07-586, May 16, 2007, pg. 32).

Recommendations:

1. In developing its strategy, FMCSA should assess the potential advantages and disadvantages, including the cost-effectiveness, for consumers and movers of the following: Determining whether implementing additional licensing and registration requirements would be effective in reducing the number of illegitimate movers performing interstate moves.
2. In developing and implementing an outreach plan to enhance coordination and effective enforcement of Federal laws and regulations among Federal, State, and local law enforcement and consumer protection authorities, FMCSA should include guidance to State officials on what is required to enable them to enforce the Federal laws in this area, including laws regarding holding goods hostage in their States.